



General Assembly

January Session, 2009

Raised Bill No. 6444

LCO No. 3370

03370_____INS

Referred to Committee on Insurance and Real Estate

Introduced by:
(INS)

AN ACT CONCERNING AUTOMOBILE INSURANCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 38a-686 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 The following standards, methods and criteria shall apply to the
4 making and use of rates pertaining to personal risk insurance:

5 (a) Rates shall not be excessive, inadequate or unfairly
6 discriminatory.

7 (1) A rate in a competitive market is not excessive. A rate in a
8 noncompetitive market including a rate for insurance provided
9 pursuant to sections 38a-328, 38a-329 and 38a-670 is excessive if it is
10 unreasonably high for the insurance provided.

11 (2) No rate shall be held inadequate unless (A) it is unreasonably
12 low for the insurance provided, and (B) continued use of it would
13 endanger solvency of the insurer, or unless (C) such rate is
14 unreasonably low for the insurance provided and the use of such rate

15 by the insurer using same has, or, if continued will have, the effect of
16 destroying competition or creating a monopoly.

17 (b) In determining whether rates comply with the excessiveness
18 standard in a noncompetitive market under subdivision (1) of
19 subsection (a) of this section, the inadequacy standard under
20 subdivision (2) of subsection (a) of this section and the requirement
21 that rates not be unfairly discriminatory, the following criteria shall
22 apply:

23 (1) Consideration may be given, to the extent possible, to past and
24 prospective loss experience within and outside this state, to
25 conflagration and catastrophe hazards, to a reasonable margin for
26 underwriting profit and contingencies, to past and prospective
27 expenses both country-wide and those specially applicable to this
28 state, to investment income earned or realized by insurers both from
29 their unearned premium and loss reserve funds, and to all other
30 factors, including judgment factors, deemed relevant within and
31 outside this state and in the case of fire insurance rates, consideration
32 may be given to the experience of the fire insurance business during
33 the most recent five-year period for which such experience is available.
34 Consideration may be given in the making and use of rates to
35 dividends, savings or unabsorbed premium deposits allowed or
36 returned by insurers to their policyholders, members or subscribers.

37 (2) (A) The systems of expense provisions included in the rates for
38 use by an insurer or group of insurers may differ from those of other
39 insurers or groups of insurers to reflect the operating methods of any
40 such insurer or group with respect to any kind of insurance, or with
41 respect to any subdivision or combination thereof.

42 (B) (i) With respect to private passenger nonfleet automobile
43 insurance, an insurer shall not allocate as flat dollar amounts to base
44 rates: (I) Producer commissions, (II) premium taxes, (III) underwriting
45 profits, or (IV) contingencies.

46 (ii) With respect to private passenger nonfleet automobile insurance,
47 an insurer may allocate as flat dollar amounts to base rates: (I) General
48 expenses, including administration and overhead costs, (II) other
49 acquisition costs for marketing and agent field offices, and (III)
50 miscellaneous taxes, licenses and fees.

51 (iii) Each insurer shall allocate such flat dollar amounts specified in
52 this subparagraph after any classification factors set forth in
53 subdivisions (3) and (4) of this subsection are applied to base rates.

54 (3) Risks may be grouped by classifications for the establishment of
55 rates and minimum premiums, provided that with respect to private
56 passenger nonfleet automobile insurance, [any change in territorial
57 classifications shall be subject to prior approval by the Insurance
58 Commissioner, and provided] no surcharge on any motor vehicle
59 liability or physical damage insurance premium [may] shall be
60 assigned for (A) any accident involving only property damage of one
61 thousand dollars or less, [or] (B) the first accident involving only
62 property damage of more than one thousand dollars which would
63 otherwise result in a surcharge to the policy of the insured, within the
64 experience period set forth in the insurer's safe driver classification
65 plan, [or] (C) any violation of section 14-219 unless such violation
66 results in the suspension or revocation of the operator's license under
67 section 14-111b, [or] (D) less than three violations of section 14-218a
68 within any one-year period, [or] (E) any accident caused by an
69 operator other than the named insured, a relative residing in the
70 named insured's household, or a person who customarily operates the
71 insured vehicle, [or] (F) the first or second accident within the current
72 experience period in relation to which the insured was not convicted of
73 a moving traffic violation and was not at fault, or (G) any motor
74 vehicle infraction. Subparagraph (G) of this subdivision shall not be
75 applicable to any plan established pursuant to section 38a-329.
76 Classification rates may be modified to produce rates for individual
77 risks in accordance with rating plans which provide for recognition of
78 variations in hazards or expense provisions or both. Such rating plans

79 may include application of the judgment of the insurer and may
80 measure any differences among risks that can be demonstrated to have
81 a probable effect upon losses or expenses.

82 (4) Each rating plan for private passenger nonfleet automobile
83 insurance that includes territorial classifications shall:

84 (A) Effective January 1, 2010, assign a weight of seventy-two and
85 one-half per cent to individual territorial loss cost data and twenty-
86 seven and one-half per cent to the state-wide average loss cost data;

87 (B) Effective January 1, 2011, assign a weight of seventy per cent to
88 individual territorial loss cost data and thirty per cent to the state-wide
89 average loss cost data;

90 (C) Effective January 1, 2012, assign a weight of sixty-seven and one-
91 half per cent to individual territorial loss cost data and thirty-two and
92 one-half per cent to the state-wide average loss cost data;

93 (D) Effective January 1, 2013, assign a weight of sixty-five per cent to
94 individual territorial loss cost data and thirty-five per cent to the state-
95 wide average loss cost data;

96 (E) Effective January 1, 2014, assign a weight of sixty-two and one-
97 half per cent to individual territorial loss cost data and thirty-seven
98 and one-half per cent to the state-wide average loss cost data;

99 (F) Effective January 1, 2015, assign a weight of sixty per cent to
100 individual territorial loss cost data and forty per cent to the state-wide
101 average loss cost data;

102 (G) Effective January 1, 2016, assign a weight of fifty-seven and one-
103 half per cent to individual territorial loss cost data and forty-two and
104 one-half per cent to the state-wide average loss cost data;

105 (H) Effective January 1, 2017, assign a weight of fifty-five per cent to
106 individual territorial loss cost data and forty-five per cent to the state-

107 wide average loss cost data;

108 (I) Effective January 1, 2018, assign a weight of fifty-two and one-
 109 half per cent to individual territorial loss cost data and forty-seven and
 110 one-half per cent to the state-wide average loss cost data;

111 (J) Effective January 1, 2019, assign a weight of fifty per cent to
 112 individual territorial loss cost data and fifty per cent to the state-wide
 113 average loss cost data.

114 ~~[(4)]~~ (5) Each rating plan shall establish appropriate eligibility
 115 criteria for determining significant risks which are to qualify under the
 116 plan. Rating plans which comply with the provisions of this
 117 subdivision shall be deemed to produce rates which are not unfairly
 118 discriminatory.

119 (c) Notwithstanding the provisions of subsections (a) and (b) of this
 120 section, ~~(1) no rate shall include any adjustment designed to recover~~
 121 ~~underwriting or operating losses incurred out-of-state, and (2) no rate~~
 122 for private passenger nonfleet automobile vehicles shall be based, in
 123 whole or in part, on information contained in an applicant's credit
 124 history or credit rating.

125 (d) The commissioner [may] shall adopt regulations₂ in accordance
 126 with the provisions of chapter 54₂ concerning rating plans to effectuate
 127 the provisions of this section.

128 Sec. 2. Section 38a-358 of the general statutes is repealed and the
 129 following is substituted in lieu thereof (*Effective October 1, 2009*):

130 The declination, cancellation or nonrenewal of a policy for private
 131 passenger nonfleet automobile insurance is prohibited if the
 132 declination, cancellation or nonrenewal is based: (1) On the race,
 133 religion, nationality or ethnicity of the applicant or named insured; (2)
 134 solely on the lawful occupation or profession of the applicant or
 135 named insured, except that this provision shall not apply to any
 136 insurer which limits its market to one lawful occupation or profession

137 or to several related lawful occupations or professions; (3) on the
 138 principal location of the insured motor vehicle unless such decision is
 139 for a business purpose which is not a mere pretext for unfair
 140 discrimination; (4) solely on the age, sex or marital status of an
 141 applicant or an insured, except that this subdivision shall not apply to
 142 an insurer in an insurer group if one or more other insurers in the
 143 group would not decline an application for essentially similar coverage
 144 based upon such reasons; (5) on the fact that the applicant or named
 145 insured previously obtained insurance coverage through a residual
 146 market; (6) on the fact that another insurer previously declined to
 147 insure the applicant or terminated an existing policy in which the
 148 applicant was the named insured; [or] (7) the first or second accident
 149 within the current experience period in relation to which the applicant
 150 or insured was not convicted of a moving traffic violation and was not
 151 at fault; or (8) in whole or in part, on information contained in an
 152 applicant's credit history or credit rating.

153 Sec. 3. Section 38a-343 of the general statutes is repealed and the
 154 following is substituted in lieu thereof (*Effective October 1, 2009*):

155 (a) No notice of cancellation of a policy to which section 38a-342
 156 applies [may] shall be effective unless sent, by registered or certified
 157 mail or by mail evidenced by a certificate of mailing, or delivered by
 158 the insurer to the named insured, and any third party designated
 159 pursuant to section 38a-323a, at least forty-five days before the
 160 effective date of cancellation, except that (1) where cancellation is for
 161 nonpayment of the first premium on a new policy, at least fifteen days'
 162 notice of cancellation accompanied by the reason for cancellation shall
 163 be given, and (2) where cancellation is for nonpayment of any other
 164 premium, at least ten days' notice of cancellation accompanied by the
 165 reason for cancellation shall be given. No notice of cancellation of a
 166 policy which has been in effect for less than sixty days [may] shall be
 167 effective unless mailed or delivered by the insurer to the insured and
 168 any third party designee at least forty-five days before the effective
 169 date of cancellation, provided (A) at least fifteen days' notice shall be

170 given where cancellation is for nonpayment of the first premium on a
171 new policy, and (B) at least ten days' notice shall be given where
172 cancellation is for nonpayment of any other premium or material
173 misrepresentation. The notice of cancellation shall state or be
174 accompanied by a statement specifying the reason for such
175 cancellation. Any notice of cancellation for nonpayment of the first
176 premium on a new policy may be retroactive to the effective date of
177 such policy, provided at least fifteen days' notice has been given to the
178 insured and any third party designee and payment of such premium
179 has not been received during such notice period.

180 (b) Where a private passenger motor vehicle liability insurance
181 company sends a notice of cancellation under subsection (a) of this
182 section to the named insured of a private passenger motor vehicle
183 liability insurance policy, or a third party designee, such company
184 shall provide with such notice a warning, in a form approved by the
185 Commissioner of Motor Vehicles and the Insurance Commissioner,
186 which informs the named insured that (1) the cancellation will be
187 reported to the Commissioner of Motor Vehicles; (2) the named
188 insured may be receiving one or more mail inquiries from the
189 Commissioner of Motor Vehicles, concerning whether or not required
190 insurance coverage is being maintained, and that the named insured
191 must respond to these inquiries; (3) if the required insurance coverage
192 lapses at any time, the Commissioner of Motor Vehicles may suspend
193 the registration or registrations for the vehicle or vehicles under the
194 policy and the number plates will be subject to confiscation and any
195 person operating any such vehicle will be subject to legal penalties for
196 operating a motor vehicle with a suspended registration; (4) the named
197 insured will not be able to have the registration restored or obtain a
198 new registration, or any other registration or renewal in the insured's
199 name, except upon presentation to the Commissioner of Motor
200 Vehicles of evidence of required security or coverage and the entering
201 into of a consent agreement with the commissioner in accordance with
202 the provisions of section 14-12g.

203 (c) If a passenger motor vehicle liability insurance company cancels
204 a private passenger motor vehicle liability insurance policy pursuant to
205 section 38a-342, such company shall send a written notice of such
206 cancellation to any lienholder shown on the records of such company
207 as having a legal interest in such motor vehicle.

208 [[c)] (d) This section shall not apply to nonrenewal or if the private
209 passenger motor vehicle liability insurance policy is transferred from
210 an insurer to an affiliate of such insurer for another policy with no
211 interruption of coverage and contains the same terms, conditions and
212 provisions, including policy limits, as the transferred policy, except
213 that the insurer to which the policy is transferred shall not be
214 prohibited from applying its rates and rating plans at the time of
215 renewal.

216 Sec. 4. Section 14-12h of the general statutes is repealed and the
217 following is substituted in lieu thereof (*Effective October 1, 2009*):

218 (a) The Commissioner of Motor Vehicles shall compile and maintain
219 a record of all registrations suspended in accordance with the
220 provisions of sections 14-12c and 14-12g. The commissioner shall
221 update the information contained in such record not less than once per
222 week and shall make available to all law enforcement agencies in this
223 state a list of all registration number plates for vehicles whose
224 registration has been suspended. Such list shall contain the number
225 plate numbers, letters or number and letter combinations and the
226 address at which the vehicle was registered. The commissioner may
227 make available the entire list or a portion thereof and may utilize one
228 or more formats for presenting the information contained therein to
229 facilitate its use.

230 (b) (1) If any police officer observes a motor vehicle being operated
231 upon the public highway, and such motor vehicle is displaying
232 registration number plates identified as suspended on the list made
233 available by the commissioner, such police officer may (A) stop or
234 detain such vehicle and its occupants, (B) issue to the operator a

235 complaint for operating an unregistered motor vehicle, or expired
 236 registration if the vehicle is not being operated, in violation of section
 237 14-12, and (C) remove the registration number plates from the vehicle
 238 and return them to any branch office of the Department of Motor
 239 Vehicles. If any police officer, motor vehicle inspector or constable
 240 observes a motor vehicle parked in any parking area, as defined in
 241 section 14-212, and such motor vehicle is displaying registration
 242 number plates identified as suspended on the list made available by
 243 the commissioner, such police officer, motor vehicle inspector or
 244 constable is authorized to remove the registration number plates from
 245 the vehicle and to return them to any branch office of the Department
 246 of Motor Vehicles. If a number plate is identified as suspended on the
 247 list provided by the commissioner and such identification is in error,
 248 the state shall indemnify any police officer, motor vehicle inspector or
 249 constable for any claim for damages made against that individual as a
 250 result of such individual's good faith reliance on the accuracy of the list
 251 provided by the commissioner regarding the confiscation of number
 252 plates.

253 (2) If any police officer observes a motor vehicle being operated
 254 upon the public highway or parked in any parking area, as defined in
 255 section 14-212, displaying registration number plates identified on the
 256 list made available by the commissioner as being suspended, such
 257 police officer may seize and impound the vehicle. If a police officer
 258 seizes and impounds a vehicle pursuant to this subdivision, such
 259 officer shall give notice to the commissioner in such form as the
 260 commissioner may require. The police officer shall give such notice not
 261 later than three days after seizing and impounding the vehicle.

262 (c) Any motor vehicle [which] that has been impounded in
 263 accordance with the provisions of subdivision (2) of subsection (b) of
 264 this section shall not be released to the owner or person otherwise
 265 entitled to possession of the vehicle unless such owner or person
 266 presents a valid registration and a current automobile insurance
 267 identification card. Any such impounded motor vehicle that is not

268 reclaimed by the owner of such motor vehicle within forty-five days
269 after impounding, shall be subject to forfeiture to the state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	38a-686
Sec. 2	<i>October 1, 2009</i>	38a-358
Sec. 3	<i>October 1, 2009</i>	38a-343
Sec. 4	<i>October 1, 2009</i>	14-12h

Statement of Purpose:

To clarify the method and allocation of certain expenses to base rates for automobile insurance policies, to specify the ratio of individual territorial loss cost data to the state-wide average loss cost data, to prohibit the use of an applicant's credit history or credit rating as a criterion in setting motor vehicle insurance premiums or in the declination, cancellation or nonrenewal of an automobile insurance policy, to direct the Insurance Commissioner to adopt regulations concerning rating plans, to require insurers to provide notice to a lienholder when an automobile insurance policy is cancelled, to require valid registration and proof of insurance to be presented before an impounded vehicle can be released.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]